

## CHAPTER 6

## ANNUITY OVERPAYMENTS

**80601. Causes of Overpayments**

Generally overpayments are caused by:

a. Failure of the annuitant, custodian, or guardian to notify the Service concerned of:

(1) Remarriage of the annuitant, before age 60 or death.

(2) Youngest child reaching age 18.

(3) Marriage or death of a child annuitant.

(4) Recovery of an incapacitated child.

(5) Termination of student status.

b. Erroneous computation.

c. Correction of member's military records.

d. Concurrent payment of RSFPP annuity and DIC if the RSFPP was payable based on the service of a member who retired for disability before completing 18 years of service 5 Oct 1961, or completing 19 years of service after 1 Nov 1968.

e. A secretarial determination that a member is alive after the Secretary concerned previously determined that the member was presumed dead. The member is liable for any indebtedness created where the annuity payments were made based on the presumption of such member's death. The member's indebtedness cannot be considered for waiver under 10 U.S.C. 2774 or 1442. If the member dies before such payments are fully recovered, the annuitant may be liable for the indebtedness if such annuitant was the recipient of the annuity payments made under the presumption of death. (See part six, chapter 2, table 6-2-1, for collection of indebtedness from retired or retainer pay.)

**80602. Recovery of Overpayments**

Upon discovery of an overpayment, start recovery action immediately. Advise the annuitant of the debt and the method in which the overpayment is being, or may be, recovered.

**80603. Method of Recovery**

The debt may be liquidated by:

a. Direct remittance to the DFAS- Denver Center.

b. Reduction by the DFAS-Denver Center of later RSFPP annuity payments, or withholding of future annuity payments until debt has been liquidated.

**80604 Waiver of Indebtedness**

When applicable, the DFAS-Denver Center advises the annuitant of the right to request a waiver of indebtedness.

a. Recovery of an overpayment of the RSFPP annuity is not required if, in the judgment of the Director, DFAS-Denver Center and the Comptroller General, there was no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purpose of the plan or against equity and good judgment. Proof of hardship is not required if the waiver is otherwise in order. The DFAS-Denver Center reviews the facts of the case and recommends to the Director, DFAS-Denver Center and the Comptroller General of the United States whether the debt should be waived. Suspension of collection action may be authorized on receipt of waiver request. Refund of an amount withheld before receipt of a request for waiver is not authorized. When a waiver is granted, refund amounts collected after receipt of the waiver request.

b. Failure to withhold the cost of coverage from retired pay of a member cannot be considered an overpayment of annuity to a designated beneficiary to authorize waiver of recovery of the overpayment.

c. RSFPP annuitants who obtain a correction of records for entitlement to additional survivorship annuity under a second election may not retain the benefits of the original election. A correction made under 10 U.S.C. 1552, except when procured by fraud, is final and conclusive on all officers of the United States. Recovery of overpayments which occur in these instances may not be waived under 10 U.S.C. 1442. Repayment may be made over a reasonable period of time as determined by the retired pay activity.

(This page intentionally left blank.)